



MEMORANDUM

TO: Planning and Zoning Commissioner

FROM: Audree Juhlin, Assistant to the Director Community Development

DATE: May 12, 2008

RE: Accessory Dwelling Unit Ordinance

Over the past three years the Housing Commission has researched and evaluated how resort and other communities across the country address affordable housing needs. They found that providing for the long-term rental of accessory dwelling units was one way that is effective in meeting affordable housing objectives with little negative impact to neighborhoods and city budgets. The 2002 Sedona Community Plan supports accessory housing units in residential areas as a strategy to address the need for affordable housing.

Based on this research, the Housing Commission drafted an initial Accessory Dwelling Unit ordinance for consideration. This draft ordinance was presented to the Planning and Zoning Commission at their January 15, 2008 meeting. At this meeting, the Commission raised several issues and concerns. As a result, staff presented P&Z's concerns to the Housing Commission. Since that time, the Housing Commission and staff have been researching strategies to address P&Z's concerns as well as those brought forward over the past few months from citizens. The Housing Commission has also hosted several informal discussions regarding housing strategies in which the accessory dwelling unit concept was discussed.

The attached document outlines issues raised and includes possible options for your consideration. Staff is seeking your thoughts and recommendations in moving forward with a final document. Staff hopes to have a final draft document for your review and consideration by July 2008.

Accessory Dwelling Unit Ordinance (ADU) - Draft
Issues and Concerns Requiring Further Discussion
May 15, 2008

The Housing Commission received comments from Planning and Zoning Commissioners during their January 15, 2008 work session as well as from citizens regarding a possible Accessory Dwelling Unit ordinance. The comments are in italics below, followed by possible options for addressing those concerns.

Occupancy Requirements:

Concern about the impacts of too many occupants on a single property (e.g. parking, aesthetics, degradation of neighborhood character). Concern that the number of people allowed in the initial proposed ordinance (4 people) may be too many for such a small unit. Are occupancy requirements enforceable? Parking is also a concern as it relates to occupancy.

Possible Options:

- Restrict occupancy by age or to family. Some communities have restrictions on who may live in an ADU (mainly ordinances adopted 10 or more years ago), such as seniors, disabled and family members. These restrictions are usually intended to preserve the ‘family character’ of neighborhood and to keep the number of conversions low, while still allowing them for the purpose of dealing with special family needs. These types of restrictions tend to be difficult to enforce. When relatives die or move away, the homeowner may be left with an empty and unusable unit, as it may be difficult to find another renter who meets the ordinance restrictions. These types of restrictions have become less common.
 - Staff does not recommend this approach, as these types of restrictions tend to limit opportunities to install ADUs and do not address the wider need for affordable housing in the community.
- Restrict occupancy to no more than 2 people (Boulder, CO and Washington State Model ordinance)
- Restrict occupancy based on size of ADU: 300-400 sq ft – 2 people, 401-500 sq ft – 3 people, 501-800 sq ft – 4 people (Tacoma, WA)
- Restrict the total number of residents in both units to no more than 8, unless all residents in the primary home and the ADU are related. (Seattle, WA)
- Restrict number of bedrooms. ADUs cannot have more than one bedroom. (El Cerrito, CA) ADUs cannot have more than two bedrooms. (Tacoma, WA)
 - Staff recommends limiting the number of bedrooms to one or two.
- Establish minimum number of people per square foot. The International Building Code sets a minimum of 200 sq ft of space for each occupant.
- Restrict the total number of occupants combined in the ADU and the primary home to the maximum number established by definition of ‘family’. (Bellevue, WA; Everett, WA; Coeur d’Alene, ID; Portland, OR)
 - Staff recommends this option as it does not increase the total number of people currently allowed by code, but rather spreads the current allowable occupancy over two units. This approach would utilize existing code enforcement practices. Potential parking would not increase any more than could currently be possible.

Recommendation: Delete occupancy requirements. Replace with the following: “The total number of people in the primary residential structure and the accessory dwelling unit cannot exceed the definition of ‘family’ as described in the Land Development Code.” [No more than 4 unrelated adults with or without minor children, domiciled in a single dwelling unit and living together as a single housekeeping unit.]

Owner Occupancy Requirements - Define “on site” property owner:

Owner occupancy is important to help ensure that the integrity of the home and neighborhood is maintained. The belief is that homeowners are more likely to maintain the property if they also live there. By limiting ADUs to owner-occupied homes, individual speculators are effectively prevented from building multiple units. Commissioners felt it is important to define what “on site” means.

Possible Options:

- On site means that either the main dwelling unit or the accessory dwelling unit must be occupied by the owner of the property. Owner occupancy is defined as a property owner as reflected in title records, who makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration or similar means and actually resides at the site more than six months in any given year. (Waseca, MN)
 - Staff recommends this definition.
- To ensure compliance, some communities require that the homeowner sign an affidavit affirming that they will occupy either the primary or accessory residence.
- Some communities require that the owner occupancy requirement be recorded as a deed restriction.
 - Staff recommends this option.
- For added insurance that owner-occupancy requirements will continue to be met, some communities provide for termination of an ADU permit upon the sale of the property and require new owners to re-register.
- Some communities also require that owners must have lived in their homes for a certain number of years before they can install an ADU.
 - Staff does not recommend this option because it could impact the ability of young families who might need to rely on the rental income in order to purchase a home.

Size:

Concern that the language proposed allows ADUs to be either too large or too small. Some concern was expressed that 400 sq ft is not large enough to be considered a livable space. Another concern was the calculation allowance of 33% of the main structure could produce a large ADU based on the trend to construct larger homes. Size is an important consideration to ensure that the ADU remains subordinate to the primary residence. Size limits are also aimed at minimizing visual impacts of additions or alterations to the residence. Size limits also tend to limit the number of tenants who can live in an ADU.

Possible Options:

- Some communities set the size of ADU as a maximum square footage and not by a percentage of main unit.

- Many communities provide a formula based on a specified percentage of the main residence or a minimum and maximum square footage option.
- Change language to say either 33% of main structure but no more than 800 sq ft, whichever is LESS.
 - Staff recommends this option.
- Some communities regulate size by specifying a maximum number of bedrooms allowed in the ADU.
 - Staff recommends this option to help address parking issues.
- Municipal Research and Services Center suggests that it may be helpful if some discretion is allowed in the review process to modify requirements in cases where strict adherence would be impractical or uneconomical. For example, many two-story homes may be most economically converted by installing an ADU on the bottom floor, which may take up half of or nearly half of the entire space available. Or an ordinance may provide exemptions for the use of basement or attic space that are more than the specified maximums.

Setback Requirements:

Mixed comments regarding setback requirements. Some commissioners asked to look at reducing setback requirements to allow smaller lots more flexibility, while others did not support reducing setback requirements.

Possible Options:

- Setbacks for ADUs – side-yard and rear-yard setback cannot be less than 3 feet in accordance with the Uniform Building Code and the distance between buildings on the same lot must be a minimum of 10 feet. ADUs higher than one-story must provide side yard set backs of 5 feet and rear yard setbacks of 10 feet. ADUs are not eligible for variances to setbacks. (Santa Cruz, CA)
- Setbacks for attached ADUs must meet the requirements for the main building. (Santa Cruz, CA)

Parking:

Several citizens are concerned about the potential for parking problems generated by ADUs. Opposition was raised to allow for on-street parking (aesthetic standards make on-street parking less acceptable). Concern that people will park all over yard, suggests requiring covered parking. One suggestion is that parking should be provided in a way that will not detract from the neighborhood – such as require covered parking, restriction on parking in front yard areas or landscaping requirements to limit visual impacts.

Possible Options:

- No additional parking spaces for ADU. (Portland, OR and Coeur d’Alene, ID)
- One additional parking space for ADU. (Bellevue, WA; Redmond, WA; King County, WA; El Cerrito, CA; Seattle, WA; Tacoma, WA; Boulder, CO; Santa Clara, CA; Blaine County, ID. Note: Seattle requires one space unless topography or location of structure pose undue hardship)
- One parking space per bedroom (Sacramento County, CA)

- One off-street parking space for each car registered to occupant of ADU (York, ME)
- Proof of adequate off-street parking; minimum of one space per unit. (Rindge, NH)
- Total of 3 off-street parking spaces for primary unit and ADU. (Edmunds, WA; Everett, WA)
- Require that parking does not happen in front yard space other than driveway apron or side yard.
- If side yard parking is allowed, require wall to screen from neighbors.
- Require adequate landscaping to screen parking where appropriate.
- American Planning Association model ordinance indicates that communities tend to require too many parking spaces, creating a major obstacle to the creation of ADUs. They recommend 1 parking space per ADU or 1 parking space per bedroom, whichever is greater. They also recommend allowing tandem parking, parking in yards, and parking in setbacks.
- The Housing Manager in Santa Cruz indicates that the main reason their program is successful is because they eliminated the need for covered parking for the primary residence and allowed parking in front and exterior yard setbacks subject to approval of zoning administrator. No more than 50% of the front yard width can be used for parking. Santa Cruz also requires impervious surfaces for parking areas.
- Municipal Research Services Center indicates that varying neighborhood standards may suggest the need for a response that is more tailored (e.g. based on performance standards rather than specific parking requirements) to the particular needs of each neighborhood.

Garage Conversions:

Several citizens indicated that they do not support garage conversions because of parking issues. Comment that garage space is too small to live in. Neighborhoods will be downgraded if garages are rented out.

Phasing of ADU in Relation To Main Single-Family Structure:

Concern about the size of the ADU relative to the primary residence if ADU was built first.

Possible Options:

- Include language requiring that the primary single-family structure application must be submitted at the same time as the ADU application, with approval based on submitted plans.

Infrastructure Impacts and Increased Density:

Concern about impact to infrastructure (sewer, septic tanks, traffic). Concern about increasing density. Concern that this is a tool for increasing density.

Possible Options:

- Some communities have adopted provisions that require an automatic review of ADU ordinances after a certain number of ADU permits have been issued. An automatic review based on the number of permits issued may be based on a certain number issued community wide or within a certain area.
 - Staff recommends establishing an automatic review period in the language to evaluate the effectiveness of the ordinance and any associated impacts that may

affect the health, safety and welfare of Sedona's citizens and businesses. The proposed Community Plan text amendment language says: "...within any five-year period, the total number of housing units established for affordable housing purposes that result in additional housing units beyond established density ranges, should total no more than 8% of the total number of housing units projected for buildout within the City. This will allow the City to track the potential impact of additional housing units on the City and consider continuation of this policy or other policy alternatives on a regular basis."

- Sample language: At least three months prior to reaching (specified amount) limit on applications or (date specific), whichever is earlier, the Department of Community Development shall submit to the City Council a report regarding accessory dwelling units established, and if deemed necessary, recommendations for revisions to the regulations and procedures relating to ADUs. Within 6 months of receiving the report the City Council shall review the report and consider the recommendations proposed. If the City has reached or is nearing the (specified number) limit on applications, the City Council shall determine whether or not to authorize further permits or otherwise revise the provisions.
- Look at other density control measures such as limiting the number of homes in a certain area that can have ADUs (e.g. census blocks) or limit the number of homes with ADUs that may be located within a certain distance of one another.
- Some communities restrict ADUs to lots that are over a certain minimum size. The purpose of this type of restriction is to control density and, indirectly, to limit the number of conversions. A concern with this approach is that a minimum lot size may prevent older homeowners (usually live in smaller homes on smaller lots) from securing the benefits of an ADU.

Views, Design Standards and Property Values:

Concern about ADUs blocking views. Concern about lowering property values. Concern about increased property taxes.

Possible Options:

- Limit the height of ADUs to one-story for new construction. Two story ADUs could be considered in existing structures. Would not allow for an ADU to be constructed over a garage.
- One story ADUs shall be no more than 13 feet in height. (Santa Cruz, CA)
- A 1 ½ to 2 story ADU shall be no more than 22 feet in height measured to the roof peak.
- Require adequate open space and landscaping to provide privacy and screening of adjacent properties. (Santa Cruz, CA)
- Location and design of ADU must maintain a compatible relationship to adjacent properties and does not significantly impact the privacy, light, air, solar access or parking of adjacent properties. (Santa Cruz, CA)
- The orientation and location of buildings, structures, open spaces and other features must maintain natural resources including significant trees and shrubs to the extent feasible and minimize alteration of natural land forms. (Santa Cruz, CA)
- The ADU shall be designed to maintain the architectural design, style, appearance and character of the main building as a single-family residence. If an ADU extends beyond

the current footprint or existing height of the main building, such an addition must be consistent with the existing façade, roof pitch, siding and windows. (Tacoma, WA)

Flexibility:

Some Commissioners suggested staff should look at language for some flexibility for unique situations. Citizen concern: The Director should not be granted discretionary authority regarding ADU requirements.

Possible Options:

- Provide criteria or parameters for discretion. For example, the size limitation section says that the Director has the ability to approve a greater or lesser size if floor area is warranted by circumstances of the building. Add language that says the Directors can waive size requirements not to exceed 10% of the total size requirements. Look at similar parameters for other issues such as parking.

Compliance and Enforcement of ADUs:

Concern about the difficulty of enforcement of ADUs. Two citizens suggested that City should not create ADUs until it can enforce existing codes. One suggestion was to include a permitting process with conditions of approval. Concern that ADUs could be used as short-term vacation rentals. Concern that Code Enforcement is complaint based; should not rely on people reporting their neighbors.

Possible Options:

- Regulate ADUs as a permitted use (as-of-right) if all applicable zoning and building code requirements are met. Require ADUs to submit an application for administrative review, inspection and approval.
- Regulate ADUs as a conditional use with noticing and public hearing as part of review process.
 - Staff does not recommend this option as the permitting procedures and public hearings may be too cumbersome and intimidating and will present too much of a barrier to those who might want to create an ADU. Some argue that this requirement encourages the installation of more illegal units.
- As an alternative, some communities provide for an exemption from the public hearing requirement if, after notification of the property owners within a certain distance from the applicant's property, the planning department receives no requests for a hearing. This approach has the advantage of avoiding unnecessary hearing expenses in cases where neighborhood residents are more accepting of ADUs.
- Require property owner to file a deed restriction, which includes conditions of approval. Include language such as: ADU is restricted to approved size; ADU permit is only effective as long as either the main residence or the ADU is occupied by the owner of the property; lack of compliance shall be cause for code enforcement and/or revoking the ADU permit. (Santa Cruz, CA)
- Some communities, regardless of approval process, impose a condition of approval which states that if the ADU is altered or no longer in conformance with the approved plans, the permit shall expire or be revoked.
- Inspect ADUs each year.

How Will Neighbors Be Informed About ADUs?

Possible Options:

- Some communities require that a notice be sent to residents within a certain distance of a proposed ADU, either before approval to allow residents an opportunity to comment on the permit, or after the approval has been issued to notify them about the ADU and the requirements of the ordinance. A notice to neighborhood residents lets them know what to expect and what their enforcement options are if problems arise.

Will Owners of ADUs be Charged a Recurring Fee?

The City is providing the owners with a benefit. Shouldn't the City institute a fee?

The only fee contemplated at this time is a building permit fee similar to those that apply to guest homes. Currently, owners pay a \$75 deposit plus \$1.20 per square foot for a guest home permit. Adding additional fees could serve as a deterrent to the construction of ADUs and could also result in higher, less affordable rents.

Existing Units Being Rented Out:

Inventory existing guest homes that are rented out. How to encourage already established guest homes being used as rental property to come forward and register their unit? Concern about existing units meeting standards. May be very difficult or costly to do so. When communities adopt an ADU ordinance, some provide incentives for the owners of illegal units to legalize them and to bring them up to minimum fire and building safety requirements. One option for encouraging legalization of existing illegal units is to waive any applicable fines for homeowners who apply for a permit within a certain period (e.g. six months) following adoption of the ordinance. Allowing a grace period for homeowners to modify illegal units that do not meet minimum health and safety standards has also been used.

Possible Options

- That portion of a single-family residence which meets the definition of accessory dwelling unit which was in existence prior to (adoption date) may continue in existence provided the following requirements are met:
 - An application for an accessory dwelling unit is submitted within eighteen months of (adoption date).
 - The unit complies with the minimum requirements of the Building Code (Mercer Island, WA)
 - Owners of illegal units who apply for a permit within the grace period may also be given some leeway on minor violations of ADU size, setback, parking, and other requirements where full compliance would be impractical (Model Zoning Ordinance)
- The Director may waive the 800 square feet limitation in any accessory dwelling unit existing on (adoption date) if an application to legalize the ADU is filed within 18 months and if the Director finds that reduction of the floor area would be impractical.
- Experience in other communities indicates only limited success in getting owners to of illegal units to come forward and register them even when offered amnesty.

Will the City Regulate Rents?

If ADUs are supposed to create affordable housing, shouldn't rents be regulated?

City imposed regulations are not being proposed. Other communities have indicated that property owners are generally unwilling to construct ADUs if a City institutes ongoing regulations that are seen as intrusive. Monitoring rents can be staff-intensive, and, depending on the number of ADUs created, could require additional staff.

Other considerations

- Some communities have adopted restrictions on ADU conversions based on the age of the home. Ordinances that restrict ADU conversions to homes that are over a certain age (e.g. 3 years) effectively prohibit ADUs in new construction. Regulations of this type are intended to limit the number of conversions and to prevent developers from constructing and marketing new homes with ADUs in single-family zones. Such regulations are also intended to prevent new construction designed specifically for conversion at a later time.
- Some communities require periodic renewal of ADU permits to allow closer monitoring of ADUs over time and to ensure that any zoning requirements continue to be met.